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TAGS: [NATO](#) [PREL](#) [MOPS](#) [MARR](#) [IZ](#)
SUBJECT: NATO/IRAQ: ALLIES SEEK LEGAL PROTECTIONS SIMILAR
TO U.S.-IRAQ SOFA

REF: A. BAGHDAD 3976
[1](#)B. STATE 132140
[1](#)C. BAGHDAD 3940

Classified By: Ambassador Kurt Volker for reasons 1.4 (b), (d)

[1](#)1. (C) SUMMARY: NATO Allies at the January 7 North Atlantic Council meeting expressed strong political support for the continuation of the NATO Training Mission) Iraq (NTM-I), but grave concern about the ambiguities of the current legal status for the mission. Allies sought clarification as to whether NTM-I currently has the same protections as in the U.S.-Iraq SOFA, as stipulated in the December Exchange of Letters (EOL) between the NATO Secretary General and Iraqi NSA Rubaie, or is subject to greater Iraqi jurisdiction, as articulated in the Dec 23 Iraqi Council of Representatives (COR) Resolution. Several Allies said they would need legal protections on a par with those extended to U.S. forces in Iraq in order to continue to contribute to NTM-I. Hungary and Denmark are signaling that they are prepared to withdraw their forces from NTM-I, possibly as soon as the end of January, if the ambiguity in the status of NTM-I is not resolved. Other Allies will likely follow their lead, and long-term expansion of the mission is on hold until this issue is resolved. Allies supported NATO Assistant Secretary General (A/S) for Operations Martin Howard's proposal that he travel to Baghdad as soon as possible to clarify the current legal basis for the mission, and begin negotiations on a new, fully-fledged agreement to continue NTM-I beyond July 31 and seek the same legal protections for NATO

personnel as in the U.S. SOFA. End Summary.

EOL IS LEGAL BASIS FOR NTM-I, NOT COR ACCORDING TO LEGAD

[1](#)2. (C) A/S Howard and NATO Legal Advisor DeVidts briefed Allies on the legal status of NTM-I, emphasizing that in their view the 23 December Exchange of Letters between NATO SYG and Iraqi NSA Rubaie serves as the current legal basis for the mission. A/S Howard pointed out that the NAC had earlier decided to seek the same legal protection for NTM-I personnel as in the U.S.-Iraq SOFA and there is no authority for him to seek anything short of that. The Dec 23 COR Resolution and the EOL provide a sufficient legal basis for the temporary continuation of the NTM-I mission, he said. There are still significant issues to work out before NATO can agree to a long-term solution. However, Howard said his goal is to settle these during January, and NATO should

continue to pursue the same or equivalent status as the U.S. SOFA.

13. (C) Howard acknowledged that the Iraqi government sees the COR Resolution as governing instead of the EOL. (NOTE: the COR resolution provides a lower level of legal protection to NTM-I than the EOL between NATO and the GOI, which gives NATO personnel the same protections as the U.S. SOFA. End note) NATO Legal Advisor DeVidts outlined his legal opinion that since Iraqi NSA Rubaie signed the EOL on behalf of the Iraqi government, it is legally binding under international law and is the legal basis for NTM-I. However, DeVidts agreed that NATO should seek clarification from the GOI's understanding of NTM-I's legal protections.

ALLIED WANT AMBIGUITY RESOLVED

14. (C) Allies broadly emphasized their full political support for the continuation of NTM-I, provided the Iraqi government continues to desire NATO assistance, and supported the approach laid out by A/S Howard. Some highlighted the importance of keeping the same protections as the U.S. SOFA (Bulgaria, Denmark, Hungary, Poland and Portugal) and others noted particular concerns with the death penalty (Italy, Portugal and Romania). Allies wanted the ambiguity between the EOL and COR resolution resolved expeditiously. Denmark and Hungary said the COR resolution does not provide sufficient legal protections for their troops and signaled that they may withdraw their NTM-I contribution if the ambiguities are not quickly resolved. Danish personnel will remain in areas where they are unambiguously not under Iraqi

jurisdiction until legal uncertainties are clarified, including how the December 23 COR Resolution affects the EOL. Hungarian personnel have returned to work on a temporary basis. Bulgaria, Estonia, Portugal, Romania and the United Kingdom agreed with the Danish view that there is an urgent need for clarification on the EOL in light of COR Resolution.

The United Kingdom suggested that this clarification could be made in another EOL or in the new MOU. Romania added that there is also a need to clarify the status for NTM-I after July 31, to engage the Iraqis on the long-term, strategic relationship between NATO and Iraq, and to clarify some legal issues in the U.S. SOFA.

15. (C) Italy and Poland said the current EOL, on a temporary basis, meets their requirements, but not for the longer-term.

Poland suggested they may increase their contribution to NTM-I and take on border security training.

16. (C) Ambassador Volker emphasized the need for mission continuity and thanked A/S Howard and others for their work in keeping the mission intact. He emphasized that the government of Iraq strongly supports the NATO mission and said the U.S. would use our good offices in Baghdad to help solve this issue. Ambassador Volker encouraged A/S Howard and his team to go to Baghdad to work out an immediate solution, and also begin to negotiate long-term arrangements.

17. (C) The SYG concluded that A/S Howard and Legal Advisor DeVidts will go to Baghdad as soon as possible. They will seek to clarify the ambiguities of the EOL and COR resolution and to negotiate a new agreement in conformity with the U.S. SOFA beyond July 31. The SYG said NATO is in the strongest position it could expect to be in, although the current EOL is far from ideal.

COMMENT

18. (C) NATO HQ and Allies share a strong sense of urgency to clarify the current legal status of NTM-I. Allies are not willing to increase participation in this mission until the ambiguity is resolved and several Allies are ready to pull personnel from NTM-I. NTM-I could even collapse at a time

where Allies expressed strong political support for it and would otherwise be willing to make greater commitments of resources. Allies seek legal protections that they perceive to be equivalent to those in the U.S. SOFA. Post supports NATO's attempt to resolve this issue as soon as possible so that the ground is laid for Allies to commit further resources to NTM-I during the April 2 NATO Summit. End Comment.
VOLKER